

## **EXHIBIT G**

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1       ROUGH DRAFT -- Since this deposition is in rough  
draft form, please be aware that there may be a discrepancy  
2 regarding page and line number when comparing the rough  
draft, rough draft disc, and the final transcript.

3       Also, please be aware that the uncertified rough  
draft transcript may contain untranslated steno, reporter's  
4 note in brackets or misspelled proper names, incorrect or  
missing Q/A symbols or punctuation, and/or nonsensical  
5 English word combinations. All such entries will be  
corrected on the final, certified transcript.

6

7               \* \* \* \* \*

8 [Start at 9:06 a.m.]

9 [BY MR. BORISON:]

10     Q. Good morning, Mr. Zuckerman. My name is Scott  
11 Borison and I represent the plaintiff in this case. Just  
12 preliminary, have you ever had your deposition taken before?

13     A. No.

14     Q. Okay. So I'm going to ask a series of questions.  
15 So if for some reason you don't understand my question,  
16 please tell me and I'll try to rephrase; it is the first  
17 rule. The second rule is that verbal responses are  
18 necessary for the court reporter to take it down. And third  
19 is if you need a break, other than with a question pending,  
20 just let me know and we're happy to accommodate you. Okay?

21     A. Okay.

22     Q. And then the fourth is that if from time to time the

23 attorney might object to the questions, and unless she tells  
24 you not to answer, we'll just go forward. We'll deal with  
25 that as it arises. Okay?

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1 A. Yes.

2 Q. So can you tell me what your job title is?

3 A. I am a director of shared services within DaVita.

4 Q. When you say "within DaVita," is that do you work  
5 particular entity or DaVita, Inc.?

6 A. I personally I don't make a distinction. I know my  
7 paycheck comes from Total Renal Care. But in my capacity  
8 and in my job duties I treat DaVita as a whole entity.

9 Q. Okay. And as far as that goes, do you have a title  
10 with DaVita, Inc. or is it just one title that you apply  
11 across the board?

12 A. One title, director.

13 Q. All right. And as part of being director, do you  
14 deal with employees of entities other than Total Renal Care?

15 A. I deal in my capacity, as director, I deal with all  
16 DaVita employees.

17 Q. All right. If it's okay with you, rather than  
18 saying "Total Renal Care, Inc." every time, if we can say  
19 "TRC," and you'll understand I'm talking about that company.  
20 Is that okay?

21 A. Yes.

22 Q. Thank you. So my understanding is that one of your  
23 job duties is communicating with the employees; is that  
24 correct?

25 A. Sorry. You cut out just at the end. Communicating

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1 with...

2 Q. Employees. Can you not hear me? I'm sorry.

3 A. I can. Sorry. I'm just thinking about the

4 question. My day-to-day activities don't involve

5 communicating with employees. I'm -- that's not part of my

6 regular job duties.

7 Q. Okay. Why don't we do it this way then what are

8 your job duties?

9 A. So -- and I wear a few hats. I'll talk about

10 policies. With respect to policies, I would say my primary

11 function is to oversee the administration of the teammate

12 policy handbook.

13 Q. Okay. In addition to policies, what other hats do

14 you wear?

15 A. I oversee our wage an hour team within people

16 services. I oversee a team that handles internally

17 unemployment claims. And then I also oversee our team that

18 oversees mergers and acquisitions from a people services

19 perspective.

20 Q. Okay. Thank you. Now, probably focus -- let me ask

21 you because you said wage an hour. Is that also commonly

22 referred to as non-exempt employees or is there a

23 difference?

24 A. That would be one issue that we would deal with as

25 part of the wage an hour team.

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1 Q. Okay. Can you explain the difference between exempt  
2 and non-exempt employees for DaVita.

3 A. So we have exempt employees and would be exempt  
4 under the FLSA. And for most intents and purposes the  
5 distinction, the importance of that is that they would not  
6 be subject to overtime, whereas we have non-exempt teammates  
7 who are -- the majority of our teammates are frontline  
8 teammates who would be subject to overtime and required to  
9 clock in and out for hours worked and be subject to all the  
10 meal period rules and rest break rules.

11 Q. Right. And I assume you're exempt, correct?

12 A. Correct.

13 Q. And now you also mentioned that you oversee the  
14 teammates handbook; is that correct?

15 A. Yes.

16 Q. And does that mean that you edit it or -- I mean  
17 what's your involvement with the teammates handbook?

18 A. So we would be involved in any deletion, revision,  
19 amendment, publishing. Anything that has to do basically  
20 with that policy handbook in any capacity, would come  
21 through my team.

22 Q. You said "we," so you're referring to then you just  
23 followed up with a "team." Is "we" your team?

24 A. Yes.

25 Q. And who is on your -- how large is your team?

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1 A. So my team is only myself and one other person. So,

2 yeah, it's basically two of us.

3 Q. And who is the other person?

4 A. His name is Alejandro Bruner-Solos.

5 Q. And what is his title?

6 A. He's an analyst.

7 Q. The teammate handbook, I know there was one issue in

8 January of 2020, correct?

9 A. I'm not sure which issue you're talking about.

10 Q. Well, there's one date of January 2020. We could go

11 ahead -- actually, let me ask you as preliminary. Did you

12 get -- I had sent some exhibits. I don't know if you have

13 them handy or not. And we talked about maybe sharing the

14 screen if we needed to.

15 MS. PETERSEN: Counsel, the witness has not been

16 provided advance copies of the exhibits. So if you can

17 share, that's the preference.

18 MR. BORISON: Okay.

19 MS. PETERSEN: If you can let me know in advance

20 which exhibit you will be using, I could potentially send

21 the witness a separate copy of it if that's easier to view.

22 But I think that it might make most sense for us to simply

23 use what you're referring to on the screen.

24 MR. BORISON: That's fine. I was just following up.

25 It's Exhibit Number 5.

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1 (Mr. Borison shares screen.) [\*\*]

2 Q. Mr. Zuckerman, I know this is -- well a year into

3 it, I guess you're probably used to Zoom at this point. I

4 put up and I just want to make sure you can see the document

5 that's being shared on the screen. Can you see that?

6 A. Yes. Yes, I can.

7 Q. All right. And that's the document that I was

8 referring to which says it's effective January 1st, 2020.

9 Do you see that?

10 A. Yes.

11 Q. All right. Is that -- and when did you begin work

12 at DaVita?

13 A. March 2017.

14 Q. And during your time there is there any -- was there

15 a teammate policy handbook prior to this one that we're

16 looking at?

17 A. Yes.

18 Q. Prior to this is it done annually or is it ad hoc

19 basis?

20 A. So we would publish a handbook or -- I have to be

21 careful how I answer. We do a yearly publishing but there

22 may also be -- it's all electronic, right, the handbook is

23 all electronic. So we do one kind of major publishing on a

24 yearly basis. And then if there needs to be any changes to

25 the handbook, in theory it's republished but not to this



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1 degree. So a major republishing every year on an annual  
2 basis.

3 Q. Okay. So when you say "not a major republishing,"  
4 there may be certain sections that are republished?

5 A. Because of the electronic nature -- and I'm not a  
6 technology guy -- but because of electronic format, even if  
7 you change one word in a policy, you're essentially  
8 republishing it.

9 Q. Okay. So you might dictate some changes to the  
10 policy and someone else inputs it and so the document that  
11 you see after that is different than the prior one?

12 A. Yes. But what I'm trying -- for instance, this  
13 teammate policy handbook where it says effective January  
14 1st, we would have that. So the idea is every year, at the  
15 beginning of the year, we would publish a new handbook. So,  
16 you know, there was a similar publishing in the year prior  
17 in the year previous to that.

18 Q. Are the previous versions kept by DaVita?

19 A. Yes.

20 Q. All right. Is there any way to tell what the  
21 changes were from year to year?

22 A. We keep track of that.

23 Q. And how do you keep track?

24 A. When I say "we," I mean my team internally.

25 Q. And how do you keep track of that?

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1 A. We use a -- we use SharePoint, which is basically a  
2 software to keep track of that.

3 Q. All right. So you would have -- and you save the  
4 information as the changes from time to time, correct?

5 A. Yes.

6 Q. And that would include what you sort of described as  
7 maybe smaller updates as opposed to revamping the entire  
8 policy manual, correct?

9 A. Correct.

10 Q. All right. And does SharePoint create like an Excel  
11 spreadsheet or do you have the document in redline versions?

12 A. So we have the documents in redline versions.

13 Q. Okay. So if we started with this January 1st, 2020,  
14 we would be able to see what changes were made from January  
15 1st 2020 to the present day by looking at your SharePoint  
16 information, correct?

17 A. Correct.

18 Q. And that should highlight every change that has been  
19 made, correct?

20 A. It should if it's been kept up appropriately.

21 Q. Have you ever had a problem with keeping it up  
22 appropriately?

23 A. The only issue is I don't know how long that  
24 SharePoint has been used. Like I said, I took over this  
25 team in 2018, so I can't speak to what happened prior to

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1 that.

2 Q. Right. And that's fine because we're sort of just  
3 talking from January 1st 2020 forward. And I guess so let  
4 me rephrase my question.

5 Since you've taken over, have you had any problems  
6 with SharePoint?

7 A. No.

8 Q. Okay. And to access that, is that just a file in  
9 some folder that you have?

10 A. Yes. So I don't actually -- again, Alejandro is the  
11 one who does the day-to-day maintenance. So he's the one  
12 who has -- he and I have access to SharePoint and it's  
13 pretty limited who has access to it.

14 Q. And that's because you don't want anybody making  
15 changes to it without your permission?

16 A. Correct.

17 Q. And how do you communicate -- like for instance,  
18 what we're looking at, which is Exhibit Number 5, how is  
19 this disseminated to the employees of DaVita?

20 A. So when we publish the handbook, we put a -- we have  
21 our intranet that we call VillageWeb and we put a banner at  
22 the top. And then we put -- there's a section on the  
23 main -- this is all on the main page of the intranet. And  
24 then we put -- what we call, I believe, a DBN or DaVita -- I  
25 can't remember what it's called exactly. But it's on the

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1 main page again but lower down. So there's two spots on the  
2 main page; one being a very primary, you know, primary spot,  
3 a banner, where it would be put up and communicated to  
4 teammates that the teammate policies have been published.

5 Q. So in essence you advertise on the VillageWeb?

6 A. Correct, yes.

7 Q. Okay. And then how do you know whether employees  
8 have downloaded it or not? Is there a system to know if  
9 employees have downloaded?

10 A. There's no system in place to know that, but we then  
11 do have the Star Learning Course to have teammates attest to  
12 having received the policy.

13 Q. And is there any sort of accounting done to see if  
14 all the teammates have responded or not or how do you keep  
15 track of whether a teammate has responded through the Star  
16 Learning or not?

17 A. Yes, there's a very robust system. So every DaVita  
18 teammate is enrolled in the course, in the Star Learning  
19 Course. And then starting, I believe -- so they were given  
20 45 days to complete the course. Starting with, I believe,  
21 two weeks before the deadline, we start a robust series of  
22 reminders to the teammate. And at some point we also  
23 include their manager.

24 Q. All right. And is there a list of people who have  
25 not gone through Star Learning for the policies?

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1 A. There is -- yes, this is a list.

2 Q. And is that -- I mean so are there people who

3 actually go the whole year without doing the Star Learning?

4 A. Potentially, although we severely narrow that down.

5 In most cases, the majority of those teammates have some

6 circumstances that maybe they were on a leave, or other

7 circumstances like, that they may have provided

8 justification. But, yes, it's conceivable that some

9 teammates may have gone without completing the course.

10 Q. But is it correct to say that you would know the

11 teammates who had not started the course?

12 A. Yes.

13 Q. All right. And when we say -- I mean I think I saw

14 numbers that there's -- forgive me. I might not have the

15 exact. But 55 to 57,000 DaVita employees; is that correct?

16 A. I believe that's correct.

17 Q. And out of that are we talking, you know, 1 percent

18 of maybe 500 or less who haven't gone through Star Learning

19 or are we talking larger numbers?

20 A. Yeah. I think the most we get, you know, maybe 2

21 percent. So we usually get to at least 98 percent

22 completion.

23 Q. All right. And are statics kept on that?

24 A. Yes.

25 Q. And who keeps the statistics?

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1 A. Alejandro.

2 Q. And if I had to ask him for those statistics, what

3 would I call that?

4 A. I would say completion, course completion statics.

5 I don't know that there's a particular name. It's just a

6 way of describing in the way that you would understand what

7 you're trying to get to.

8 Q. Right. And that's all I was looking for. I

9 understand that there might not be a formal name to it.

10 Thank you. And when the changes are made, even if it

11 doesn't call for a brand new complete version of the

12 teammates handbooks, how are the changes communicated to

13 employees?

14 A. So if it's a change that's happening not within part

15 of that annual publishing, then we would -- in the table of

16 contents you would see -- I believe it says updated. And so

17 that would be an indication that there's been a change to

18 the policy. If you -- I believe if you keep scrolling down,

19 it would be in the individual for each chapter. Right

20 there. You see right there where it says update.

21 Q. Right. So you're referring to this page which is

22 labeled 507, correct?

23 A. Correct.

24 Q. And so the update just advises people that there's

25 been a change to it?

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1 A. Correct.

2 Q. And so you know we're here about the Disaster Relief  
3 Policy, correct?

4 A. Yes.

5 Q. And on the issue of the Disaster Relief Policy,  
6 there were changes made in 2020, correct?

7 A. Correct.

8 Q. And I think -- now, when I'm seeing this where it  
9 says update, so whenever this was produced, I sort of have  
10 to know what date this was produced, right, so I can figure  
11 out what updates would be included?

12 MS. PETERSEN: Objection. Counsel, I'm just  
13 clarifying produced in terms of the litigation? Produced in  
14 terms of --

15 MR. BORISON: Right. All I have access to is what  
16 you produced in litigation.

17 Q. So my only question is so when I look at this, so if  
18 we look at page 41, Disaster Relief Policy, it says update.  
19 But from your description if someone printed this out on --  
20 let's just say June 1st of 2021 -- I would not see what it  
21 was prior to that date; I would have the update already in  
22 this policy, correct?

23 A. Correct.

24 Q. So to be able to see what it said on January 1st,  
25 2020, we would have to go to your SharePoint files, correct?

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1 A. Yes, or contact -- yes, or contact us.

2 Q. Okay. So you mentioned VillageWeb. Can you

3 describe what VillageWeb is?

4 A. That's basically just our intranet site, so internal

5 for DaVita teammates.

6 Q. All right. It's interactive in the sense that

7 employees could sign into the VillageWeb and send messages?

8 A. As far as I'm aware, there's no messaging

9 capability. It's just basically information, so a composite

10 of the information.

11 Q. So if the employees had questions about corporate

12 policy, how would they communicate that to -- would they

13 communicate that to you?

14 A. I should say there is contact information. I mean

15 there is information about departments and there's contact

16 information. But, yes, if people had specific questions

17 about policies, we have a separate policy email; or if they

18 could ask their leader or their -- you know, someone in

19 their local leadership -- and that either they can help

20 answer the question or they would know to direct it to my

21 team.

22 Q. All right. And are there any forms that are general

23 forms where employees can post questions or there's nothing

24 like that?

25 A. I'm actually not sure if there's a kind of a post a



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1 question feature on the VillageWeb. I'm not sure.

2 Q. Okay. Now let me switch documents.

3 (Mr. Borison shares screen.) [\*\*]

4 Q. This is what has been marked as Exhibit 3. Let me  
5 just ask if you recognize this document. Just so you know,  
6 it's your declaration you did in the case at one point?

7 A. I do.

8 Q. So in this document there's a couple of statements  
9 that you made. I just wanted to ask you about it. In  
10 paragraph 4 you reference in March 2020 that you issued a  
11 statement regarding a Disaster Relief Policy. Do you see  
12 that?

13 A. Yes.

14 Q. And is this -- the statement that you reference, is  
15 this different than a modification to the teammates  
16 handbook?

17 A. Yes.

18 Q. And why was a statement issued as opposed to just  
19 modifying the handbook?

20 A. Well, I think this has to do with the pandemic. In  
21 particular with the pandemic, we have been since -- I mean  
22 since it started in early 2020, have had constant  
23 communications to our teammates about COVID-related issues.  
24 And so I think this statement was just part of that series  
25 of communications that we were sending to the Village, to

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1 our teammates, that had specific COVID-related messages.

2 Q. Okay. When you say it was "sent to your teammates,"

3 how were they sent?

4 A. So we had -- my recollection is we do have a

5 dedicated COVID-19 page on our intranet, on the VillageWeb.

6 So I know that this was -- this statement was posted on that

7 page, on that COVID-19 page on our intranet. So I'm not

8 sure what I -- sorry. Go ahead.

9 Q. No. Go ahead. I'm sorry.

10 A. Well, I was going to say, what I'm not sure is I

11 also believe -- because we also had emails being sent on a

12 pretty consistent basis, and still do, to teammates, again,

13 about COVID-19 issues. I seem to recall that there was a

14 email sent. I just can't be certain anymore.

15 Q. All right. So when you said but if we went to the

16 intranet page that you referred to that was set up for

17 COVID-19 communications, that would tell us what

18 communications had been sent concerning COVID-19, correct?

19 A. So I don't keep up with the page. I know there was

20 something particular about the statement, so there was --

21 you could find the statement. I'm not sure if they keep a

22 history of every communications that's been sent, but I know

23 the statement was there.

24 Q. Who would be in charge of that page?

25 A. I can't give you -- I'm not sure exactly.

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1 Q. When you said you know they're there, is that

2 because you looked at the page yourself?

3 A. I have. I mean I remember it being there. So,

4 again, I'm not sure of the history. I'm not sure if they

5 have a history of everything that's been put on there. But

6 I do recall that it was definitely up there at the point of

7 the statement being released.

8 Q. Were you involved in releasing the statement?

9 A. No.

10 Q. Do you know who prepared the statement?

11 A. I do not for certain.

12 Q. But it did affect the handbook, correct?

13 A. There was a component of it, yes. In the statement

14 there's the section that it was put in the handbook.

15 Q. Right. And then in this -- but this wasn't -- in

16 paragraph 5 it talks about the employees annually

17 acknowledge. There was no acknowledge as to the update

18 that's referred to in paragraph 4, is there?

19 A. No. That's correct.

20 Q. And speaking of the acknowledgements is there a

21 record -- I know we discussed earlier there's a record of

22 people who have not responded. Is there also a record kept

23 of people who have acknowledged?

24 A. Yes.

25 Q. And that would be the 98 percent. So like, for

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1 instance, in this particular case in Exhibit 4 -- and I can  
2 scroll down to it to help you, but I'm sure you're familiar  
3 with it. This is for my client, correct?

4 A. Correct.

5 Q. There would be similar one for everyone who  
6 acknowledged this?

7 A. Yes.

8 MS. PETERSEN: Counsel, for the record, could you  
9 please identify what page you're referring to.

10 MR. BORISON: Sure. It's page 14 of this  
11 declaration.

12 MS. PETERSEN: Thank you.

13 MR. BORISON: Sure.

14 Q. Now, in paragraph 3, this is the January 20 teammate  
15 policy and also included is Disaster Relief attached as  
16 Exhibit 2. Now, we just -- we talked about and I'm looking  
17 at Exhibit 2, which is page 49. Do you know if what we're  
18 seeing here was the actual original page included or does  
19 this include updates? [\*\*]

20 MS. PETERSEN: Objection, vague.

21 A. This was --

22 MS. PETERSEN: You can answer if you understand.

23 A. I'm not sure if I understand. But this policy, so  
24 what we're seeing was the policy as of, I will say January  
25 2020.

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1 Q. And how do you know that?

2 A. Well, I know it because it doesn't contain. So what  
3 it doesn't have is that policy, that section from the  
4 statement.

5 Q. Right, but there could have been changes between  
6 January 2020 other than the statement, correct?

7 A. Correct.

8 Q. And so when you pulled this document -- I guess my  
9 point is when had you pulled this document, you just went to  
10 the current version of the handbook when you pulled it,  
11 correct?

12 A. Correct. But I will say this because I'm in charge  
13 of the policy team, I know that there was no changes to that  
14 section.

15 Q. Okay. Did you check your SharePoint to determine --  
16 to make that determination or you just remember that?

17 A. I just remember that.

18 Q. Have you at some time checked the SharePoint to see  
19 if there were any changes?

20 A. No.

21 Q. So let's take a look at, which is Exhibit 3, and  
22 it's page 10 of this exhibit. Do you see that?

23 A. Yes.

24 Q. Now, just in the first sentence, "We understand some  
25 teammates have raised questions." Do you know how these

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1 questions were raised?

2 A. I do not.

3 Q. Who would know that?

4 A. I guess -- I'm not even sure how to answer that. I

5 don't know.

6 Q. Okay. Are you familiar that there were questions

7 raised about the application of the policy?

8 A. So at the point where I became aware that was -- I

9 was looped into discussion with counsel.

10 Q. Okay. And so let me give a little short, I guess

11 number 4 rule. I'm not asking for anything you discussed

12 with counsel. You can tell me you have had discussions with

13 counsel, okay.

14 A. Sure.

15 Q. I just tell that you so you don't feel like you're

16 obligated to answer and give me details. That is protected

17 by attorney-client privilege, so I'm not really seeking

18 that. But I do need to know is there anybody, besides

19 counsel, that you spoke to about this?

20 A. I don't believe so. Like I said, I think by the

21 time there was discussion of this change or communicating

22 this part about the policy, at that point the first time I

23 got involved in those discussions counsel was already

24 involved.

25 Q. Okay. And so you were not party to preparing this

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1 document, correct?

2 A. Sorry. I want to be careful how I answer that.

3 This document -- I was not part of creating this document,

4 so the answer I guess is no. Let me rephrase -- or maybe I

5 can ask you to rephrase your question.

6 Q. Sure. Did you participate in the drafting of this

7 document?

8 A. I would say no in the sense that I -- my

9 recollection is this had already been prepared and I had no

10 say in the wording of it. So I guess the answer to your

11 question is no, I was not. I did not participate in the

12 drafting of the document.

13 Q. And do you know who prepared the document?

14 A. I don't know for certain.

15 Q. Well, when you say "not for certain," are you just

16 saying is that -- is there someone you believed was involved

17 in the preparation of this document?

18 A. No. I just know -- I know some of the parties that

19 were involved in those discussions I was having included

20 with counsel, but I don't know which of those parties

21 actually put pen to paper and drafted this document.

22 Q. Okay. When you say "parties," are you talking about

23 all lawyers or are you talking other people in the

24 non-lawyer position?

25 A. There was lawyers, obviously, and then there were

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1 other -- yeah, I can't remember everybody on the call, but I  
2 know definitely our lawyers and at least one other person  
3 that I would call that was on.

4 Q. Okay. Who is the other person that you do recall?

5 A. It would be our chief people officer.

6 Q. Who is that?

7 A. His name is Kenny Gardner.

8 Q. Who does he work for?

9 A. As far as I'm aware, he's the chief people officer  
10 of DaVita.

11 Q. Okay. And I think you mentioned earlier you have  
12 access to employee records regardless of which individual  
13 activity the person works for as part of your job?

14 MS. PETERSEN: Objection, assumes facts not in  
15 evidence, misstates prior testimony.

16 MR. BORISON: Well, let me ask you this, I thought  
17 you said earlier that you had access -- that you dealt with  
18 issues of anybody who was under the DaVita umbrella whether  
19 they worked for TRC or someone else; is that correct?

20 A. That's correct. I just want to clarify. In my  
21 position, as part of overseeing the teams I mentioned, we  
22 don't make a distinction as to -- I don't mean to be quite  
23 transparent. I'm not even sure I'm aware or have good  
24 understanding of those distinctions; because for us, in my  
25 capacity as director overseeing those teams, we treat



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1 everybody, all DaVita teammates are just DaVita teammates.

2 Q. Right. Here's maybe simpler, I guess we talked

3 about that there's 55 to 57,000 employees, correct?

4 A. Correct.

5 Q. Do you have access to the records, any records for

6 those 57,000 people?

7 A. I do have -- I mean we have -- yes, I would have

8 access to some information regarding all those teammates.

9 Q. Would that include their StarLearning attempts?

10 A. No.

11 Q. Okay.

12 A. I mean -- so StarLearning is a separate system; I

13 just want to clarify that.

14 Q. Tell me what StarLearning is.

15 A. I'll tell you what I can. And I don't even know

16 that -- I don't know what access I have to StarLearning

17 because I don't really access it very much. But

18 StarLearning I would classify -- and I'm going by what my

19 understanding is, my personal understanding. But I would

20 classify StarLearning as kind of our education platform, an

21 e-learning type of environment to educate our teammates on a

22 variety of topics.

23 Q. Right. But it's also used to obtain

24 acknowledgements from them, correct?

25 A. Correct. But, again, in my opinion, part of that is

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1 education, too, right. So we're educating them about what  
2 it we're asking them to acknowledge or attest to.

3 Q. And that would include the different, the Disaster  
4 Relief Policy, correct?

5 A. Sorry. We don't have anything that's particular to  
6 Disaster Relief. We have our StarLearning course that is  
7 about our teammate policy handbook of which part of that  
8 would be, you know, the Disaster Relief section.

9 Q. Right. But on this particular one, this  
10 statement -- I guess, let me go back because I'm not sure.  
11 We might have got sidetracked. Were you aware of people  
12 raising questions about the application of this policy  
13 during COVID-19?

14 MS. PETERSEN: Objection, asked and answered.

15 Q. You can answer.

16 A. I was trying to -- I seem to recall but I'm not even  
17 aware of the timing of it. But there may have been one  
18 instance where -- and I don't even have a clear recollection  
19 of it -- where there might have been an email about the  
20 Disaster Relief Policy. But other than that one incident,  
21 which I still don't even have specific knowledge of when it  
22 might have occurred before or after, I know -- you know,  
23 again, when this statement came up, I was already looped in  
24 when it had already been drafted.

25 Q. Okay. Well, putting aside when it happened, tell me

00025

1 what you recall.

2 A. I don't even -- I don't recall specifics. I seem to  
3 recall that there may have been an email basically just  
4 asking does the Disaster Relief Policy apply. That would be  
5 the extent of my recollection.

6 Q. You don't recall who it would be from or anything  
7 like that?

8 A. I do not. I'm just trying -- sorry. I'm trying to  
9 think about it. No, I wouldn't. I have no idea who  
10 specifically it would have come from.

11 Q. And that's the only communication which you recall,  
12 is a single email, correct?

13 A. Yeah. Like I said, I'm just going by general  
14 recollection, but yes.

15 Q. Are there some documents that would refresh your  
16 recollection?

17 A. Not that I would keep track of. You know, people  
18 come to me, I was doing a lot of work on COVID so people  
19 would come to me with some policy-related questions so it  
20 could have been from a variety of sources. But I don't know  
21 and I don't think there's any way I could find out.

22 Q. This document that we've been looking at on page 10  
23 of this exhibit, do you know why it's not dated? [\*\*]

24 A. I do not know.

25 Q. Do you know when it was prepared?

00026

1 A. The only thing -- my estimate is, because I'm aware  
2 of kind of the timeline of how this all unfolded, I would  
3 say it had to have been March 2020.

4 Q. All right. And when you say how this all unfolded,  
5 what are you referring to?

6 A. I'm just saying the timeline, because I know by the  
7 end of March, I believe we had already communicated with  
8 teammates. And I know this all happened pretty early in the  
9 pandemic, so that's why I say everything, by the time  
10 this -- the policy, that provision was put in the policy,  
11 that all happened by the end of March so it all happened  
12 pretty quickly.

13 Q. When you say communicated with teammates, is this  
14 the communication that you're referring to or is there some  
15 other communications?

16 A. No. This one.

17 Q. Any other communications besides this one that was  
18 provided to teammates?

19 MS. PETERSEN: Objection, vague.

20 Q. You can answer.

21 A. I think I may have already said it. But I'm not  
22 certain of other -- you know, I referred to it being put on  
23 the intranet. I'm not sure. I seem to recall there being  
24 an email but I can't say for certain.

25 Q. If you had to find that email, do you think you

00027

1 could find the email that communicated with the teammates?

2 A. I don't know if I would have it just because our  
3 system deletes emails after a certain amount of time and  
4 we're talking, you know, more than a year ago, so I don't  
5 know if I would find it within -- even if I searched within  
6 my Outlook inbox.

7 Q. When you were preparing the declaration, did you do  
8 any search to see what communications had been sent to  
9 teammates?

10 MS. PETERSEN: Objection.

11 A. No.

12 MS. PETERSEN: To the extent that reaches into  
13 attorney-client communication or work product.

14 MR. BORISON: You're objecting my asking him if he  
15 did a search.

16 MS. PETERSEN: To the extent that that reflects  
17 attorney-client communication, yes. But he has answered the  
18 question.

19 Q. So during your time there in your position -- and  
20 your position, as I understand it, and correct me if I'm  
21 wrong -- you're in charge of the teammates handbook,  
22 correct?

23 A. Correct. I would like to phrase that I'm in charge  
24 of the administration of the teammate handbook. I'm not  
25 sure but that's how I would usually phrase it.

00028

1 Q. You're not involved in drafting the teammates  
2 handbook?

3 A. I am not -- I'm not usually involved in creating  
4 policies if that answers your question.

5 Q. Potentially. So let me just explore it a little.  
6 Where do the policies come from?

7 A. So we will have various stakeholders that would come  
8 forward with proposed, whatever it is, amendments,  
9 revisions, deletions. As you can imagine, there are certain  
10 policies that may be related to certain departments. And so  
11 you -- and certain subject matter experts. So it can come  
12 from a variety of people, but I'm usually not the one to  
13 say, you know, we need this policy and start actually  
14 drafting the policy. And that's where I think I go to the  
15 administration, why I say that I'm there to administer the  
16 handbook.

17 Q. But are you included when people want to make  
18 proposed amendments?

19 A. Yes.

20 Q. So you would have knowledge of proposed amendments  
21 being circulated, whether you resolve them or not, you're  
22 still in the chain for knowing that people are asking for  
23 proposed amendments, correct?

24 A. Correct.

25 Q. And when you say they propose them, how is that

00029

1 normally done?

2 A. That can be -- so it can be done in a variety of  
3 ways. I would say, the top of my head there's two main  
4 ways; one is we talked about that annual publishing, so as  
5 part of that process we reach out to all -- what we would  
6 call, I guess, policy owners to see if they have any changes  
7 to be made with respect to policies; and the other -- so  
8 that's one way; the other way would be for anybody to  
9 proactively come to us and say, hey, we want to add this,  
10 change this, or do this. So I think those are kind of the  
11 two ways.

12 Q. Is there any other way?

13 A. I think those are the only two ways I can think of;  
14 either we're reaching out or we're receiving reach-out, so I  
15 can't really think of any other way it would come to us.

16 Q. In this particular case as to the Disaster Relief  
17 Policy, you didn't solicit any request, correct, or changes?

18 A. So just to clarify, we would have -- you know, we  
19 would have as part of our annual. But with respect to that  
20 section around COVID-19, no, we did not do the reach-out for  
21 that.

22 Q. And when you say people proposed changes or asked  
23 for changes, it's usually a submission where they propose  
24 something and someone acts upon that proposal?

25 A. So there's no formal process. It can happen in a

00030

1 variety of formats. You know, they may reach out to me  
2 directly; they may send an email to the inbox. So there's  
3 not -- I would just say that there's no formal way to  
4 request a change.

5 Q. When you get -- in this particular case, you didn't  
6 get a proposal for a change; you were provided the statement  
7 that was going to be issued, correct?

8 A. Well, I would say -- so this was part of the -- the  
9 one thing I want to say because this was part of a  
10 discussion we had with counsel -- but there was prior to  
11 this -- so the statement already includes the provision.  
12 That provision I would say predates the statement, right.  
13 So to include that provision in the statement, you  
14 already -- that provision what I'm calling that COVID-19  
15 paragraph, let's say -- that had already been drafted prior  
16 to the statement.

17 Q. Right. But I'm talking about the -- let me just  
18 refer you back to it.

19 A. So the statement -- I just want to clarify -- the  
20 statement itself is not in the policy handbook; only that  
21 part where it says COVID-19 crisis; only that paragraph was  
22 put into the handbook.

23 Q. Right. So was this statement that I'm looking at,  
24 would that have been sent out to the employees or would they  
25 just see that there was a change and this now appears in the



00031

1 handbook?

2 MS. PETERSEN: Counsel, could you be a bit more  
3 specific as to what you're referring to -- again, for the  
4 record.

5 MR. BORISON: Sure. I started this with saying we  
6 were looking at and he was just making a distinction between  
7 the statement and what was actually included in the  
8 handbook.

9 Q. So my question to you is, do you see where I  
10 highlighted, which is I think what you're referring to as  
11 the part that was added to the handbook, correct?

12 A. Correct.

13 Q. Do you see the highlighted part that's labeled  
14 COVID-19 crisis and it's one paragraph that starts with the  
15 word "the" and ends with the word "patients." Do you see  
16 that?

17 A. Yes.

18 Q. That was what was added to the handbook, correct?

19 A. Yes.

20 Q. Do you know when it was added to the handbook?

21 A. I don't know exactly but it was sometime in I  
22 believe in March 2020.

23 Q. And would there have been anything, an update or an  
24 email sent out saying there's been an update to that  
25 provision of the Disaster Relief Policy at that time?

00032

1 A. There would have been just the statement.

2 Q. Okay. So that's what I'm asking you. So the rest  
3 of this statement would have been sent to everyone?

4 A. Well, that's a -- so going, you know, to what I  
5 said, I believe there was an email. So you're using the  
6 word "sent" so I want to be very careful in how I answer  
7 because I can't say for certain that it was sent in terms of  
8 a -- let's say like an email that's sent to all the  
9 teammates. I believe it was. What I do know with a certain  
10 degree of certainty is that this statement was put on the  
11 VillageWeb for teammates to access, so that's why I'm just  
12 trying to differentiate between the advertising, as you put  
13 it in another context, as opposed to being sent. I'm not a  
14 hundred percent sure that it was sent. I believe it was.

15 Q. How would we find out it was sent?

16 A. I believe you would have to talk to our  
17 communications team.

18 Q. Who is that?

19 A. I would say the person -- the best person would be  
20 Carley St. Clair.

21 Q. Okay. So besides what we just looked at, are you  
22 aware of any other communications to teammates of the change  
23 in the COVID-19 --or the change in the Disaster Relief  
24 Policy that's reflected on this page 10?

25 A. The only other thing is I would say there may have

00033

1 been oral communication. We, again, as part of or constant  
2 communication to teammates about Covid-19-related issues, we  
3 would have ongoing calls with teammates, what we call Voice  
4 of the Village Calls, and it may have been mentioned on one  
5 of those calls.

6 Q. And the Voice of the Village Calls, explain to me  
7 what that is.

8 A. That's just a forum to communicate issues, you know,  
9 on a widespread basis to DaVita teammates and we had  
10 specific Voice of Village Calls for COVID-19 issues.

11 Q. And are they broken down into specific issues, for  
12 instance, as to the Disaster Relief Policy; or is it just  
13 general COVID-19 Voice of the Village Calls?

14 A. I don't think it would be. So, you know, the format  
15 would be the leaders would have an agenda of things they  
16 wanted to discuss so -- and I don't recall if the Disaster  
17 Relief was one of those agenda items. And the other part of  
18 it, though, is there would be, you know, a town hall so  
19 basically teammates could ask questions.

20 Q. And are the records kept of these Voice of the  
21 Village Calls?

22 A. I can't say for certain.

23 Q. Who would know?

24 A. I'm not sure. Carley may know. I don't know. But  
25 I don't know if she knows that or not because that's -- you

00034

1 know, -- I will say Carley is or people services  
2 communication and that may be, you know, DaVita has a  
3 broader communications team. So I don't know if it was that  
4 team or if Carley would know. I'm not sure.

5 Q. Did you participate in any of these calls during  
6 2020?

7 A. When you say participate, participate as a speaker  
8 or participate as a participant.

9 Q. Any way.

10 A. Yeah, I listened to probably a majority of those  
11 calls.

12 Q. Do you recall anybody raising the issue of the  
13 Disaster Relief pay as it applied to COVID-19?

14 A. I don't specifically recall.

15 Q. Do you keep notes from those conversations that you  
16 listen to?

17 A. No.

18 MS. PETERSEN: And, Counsel, we don't need to do it  
19 right now but we've been going for about an hour so I would  
20 like to ask for just a quick break.

21 MR. BORISON: Why don't we do it right now and we'll  
22 take five minutes, fair?

23 MS. PETERSEN: Perfect.

24 (Brief recess.)

25 Q. You had mentioned earlier that you had had a

00035

1 conference call with lawyers concerning this statement,

2 correct?

3 A. So I know there was email communications. I don't

4 know -- I don't particularly recall there being calls, but

5 there may have been a call. What I remember distinctly were

6 email communications.

7 Q. Okay. And none of these were addressed to you in

8 particular but you were included amongst other people

9 correct?

10 A. Correct.

11 Q. And I thought -- and the reason I said that was I

12 thought you had identified someone else who had been on the

13 call with you and I'm -- I did not write down his name but

14 there was another person who is not an attorney who you

15 recall participating. Do you remember --

16 A. Yeah, I did. Again, just to clarify, because I

17 don't think if I did -- I don't believe, you know, I was

18 saying it was a call. I think it was attorney

19 communications because -- yeah, so I just want to make clear

20 that I remember emails. But, yes, his name was Kenny

21 Gardner and he's our chief people officer.

22 Q. Right. And I'm sorry. It might have just been my

23 -- phrased it as a call, so I'm not trying to put words in

24 your mouth.

25 Let me ask you a question. During your time frame

00036

1 with DaVita, have you seen the Disaster Relief Policy ever  
2 applied?

3 A. So I don't have direct knowledge of it being  
4 applied. I'm not part that have process where it's applied  
5 -- again, focusing on I administer the teammate policy  
6 handbook. I'm not part of this application process.

7 Q. Okay. But you are in charge of the wage an hour  
8 people who would be affected by the Disaster Relief Policy,  
9 correct?

10 A. Sorry. I need you to clarify. When you say the  
11 wage an hour people, which people are we talking about.

12 Q. I thought one of your topics or one of your areas  
13 was wage an hour employees.

14 A. So let me clarify. Wage an hour issues, not  
15 necessarily employees. My team oversees wage an hour  
16 issues. So, you know, you mentioned one of the issues we  
17 deal with is exemption/non-exemption. So when issues come  
18 up around that, when there's questions around it, you know,  
19 my teammate may, with help from counsel, provide guidance on  
20 that. But it's not -- yeah, I think -- you asked me the  
21 question. We're not constantly communicating with teammates  
22 about wage an hour issues.

23 Q. Okay. Let me ask you a question. We looked at the  
24 teammate handbook. Are there any other policies issued by  
25 DaVita to TRC, or anybody else that you're aware of, besides

00037

1 the teammates handbook?

2 A. I can't -- I'm sorry. Could you repeat that  
3 question? I just want to make sure I understand it first.

4 Q. Are there any other policies that you're aware of  
5 besides what would be reflected in the teammates handbook?

6 A. So there are other policies. These I, you know I  
7 want to -- we're talking about -- and for clarification, I  
8 keep referring to teammates, which is what we call our  
9 employees. I'm part of our human people services, which is  
10 human resources. So these policies are human resource  
11 policies.

12 There are other policies like clinical policies that  
13 I have no -- you know, we have compliance policies. I'm not  
14 part of those teams, so I can't speak to how those are  
15 communicated, you know, when they're communicated. I can  
16 only speak to people services policies.

17 Q. Okay. I understand. So limiting it to your area,  
18 which is people policies, are there any other policies other  
19 than what's reflected in the teammates handbook?

20 A. I want to say there may be. But, you know, it also  
21 comes to what the definition of a policy is. We may have  
22 guidance. I'm just trying to -- I'm just trying to think  
23 about this to make sure I can give you the best answer on  
24 this.

25 Q. I would take a mediocre answer.

00038

1 A. Well, listen, my -- I think my goal, my intent is to  
2 have any policy that would apply on a widespread basis to  
3 DaVita teammates, my goal would try and ensure it's in the  
4 policy handbook. So I would try to limit, if there were  
5 policies that were sent to teammates, I would try to limit  
6 that because my goal is to try and make sure that it's in --  
7 I want our handbook to kind of be that go-to document for  
8 DaVita teammates.

9 So there may be policies out there. But my goal is  
10 to always -- if there is in fact a policy, I would think it  
11 should be -- you know, we would want to try and get it in  
12 the handbook if it has a general widespread application.

13 Q. Well, Are you aware of any other policies, though,  
14 that's my question? I understand your goal would be to  
15 include it in the handbook. Are you aware of any other  
16 policies?

17 A. So honestly I'm not trying to be evasive. I just  
18 want to ask because I don't know what you define as a  
19 policy. We have -- so, for instance, let me give you an  
20 example. We have one of our policies in this handbook is  
21 about attendance, so we have our attendance policy.

22 There are divisions out there that have these  
23 supplemental, but it all depends on what you call it. Some  
24 people might call it a supplemental attendance policy. It  
25 kind of builds on our policy. So if you call that a policy,



00039

1 are there other policies, absolutely. But I would call that  
2 kind of a -- that, first of all, very specific to a  
3 particular region. And I don't know if I would call it a  
4 policy as opposed to a supplement or, you know, addition.  
5 So that's why it's very hard for me to answer that question  
6 because I don't know what you consider a policy. I'm also  
7 not aware of everything out there.

8 But to answer, again, are there supplemental  
9 attendance -- what some people call attendance policies --  
10 yes, there are those out there. So maybe there are other  
11 things I don't know about.

12 Q. Right. And I'm only asking what you know about. I  
13 think maybe you're taking these questions much broader on  
14 behalf of the entire company as opposed to I'm just asking  
15 for your knowledge, okay.

16 And so here's my question, are you aware of any  
17 policies that have been in effect that affected either  
18 exempt or non-exempt employees' compensation during  
19 COVID-19?

20 A. Any policy -- can you repeat that question for me?

21 Q. Sure. Any policy affecting compensation of exempt  
22 or non-exempt employees during COVID-19. And we'll start  
23 for the COVID 19 era, we'll say from January 1st, 2020 to  
24 the present.

25 A. I'm going to say, no, I'm not aware of any policies

00040

1 related to COVID that were issued outside of the handbook.

2 Q. Are you aware of any compensation being paid to any  
3 exempt or non-exempt employees that has increased during the  
4 COVID-19 era, which I defined as January 1st, 2020 to the  
5 present?

6 A. Yes, I am aware, yes.

7 Q. What -- tell me what you're aware of.

8 A. So at some point there was -- and I want to be very  
9 clear because I don't know how to phrase it. I'm not a  
10 payroll person. But at some point in recognition of COVID,  
11 there was an amount of I believe -- I can't remember what it  
12 was; it may have been \$100, \$200 per paycheck or whatever it  
13 was -- for a period of time that was paid out to teammates.

14 Q. And was that paid out to particular teammates or all  
15 teammates?

16 A. I don't recall for certain. I know I received it,  
17 so I'm going to say it may have been all teammates; but I  
18 don't know for certain. But, again -- so that's not within  
19 any of the fields that I deal with. I'm only telling you as  
20 a DaVita teammate what my experience was in that regard.

21 Q. I appreciate that. You know, earlier your attorney  
22 said "if you understand" or "if you know." Of course I  
23 can't ask you anything you don't know, correct?

24 A. Correct. But that's why I just want to clarify.  
25 I'm speaking to you not as someone who had been on one side

00041

1 of the fence. I'm speaking to you as just like any other  
2 teammate could tell you, oh, yeah, I remember we received  
3 this \$200 or whatever it was.

4 Q. Right. Do you know why you received it?

5 A. Again, I don't know how -- I don't recall how it was  
6 phrased or how it was worded. I just remember it had to do  
7 with recognizing, you know, the pandemic. And this was  
8 earlier on, too, when everything was new.

9 Q. And did you get any written explanation with why  
10 you're getting it?

11 A. So, you know, I spoke about the Voice of the Village  
12 Calls so I know it was mentioned on at least a couple of  
13 those calls. And there may have, again, been email  
14 communications as part of those robust communications that  
15 were being sent out. I'm pretty certain that there was an  
16 email about it, too.

17 Q. And who do you think sent out that email; who would  
18 have done that?

19 A. I think it would have come in the name of perhaps  
20 Kenny Gardner but I can't be for certain. But, again, our  
21 communications team would know.

22 Q. And that's Ms. St. Clair, I think?

23 A. I think Ms. St. Clair would be a good starting  
24 point, at the very least.

25 Q. Okay. Anything other than that pay that you just

00042

1 described? Anything else that changed because of COVID-19

2 as far as compensation?

3 A. Not that I can recall off the top of my head. I

4 remember that. I remember that payment that was made, those

5 payments but...

6 Q. And let me just ask you about your background. You

7 said -- did you start to work there in 2017; is that what

8 you said?

9 A. Correct, March, yes.

10 Q. And prior to that -- you're actually an attorney in

11 Canada?

12 A. In Canada. I'm not licensed in any of the states.

13 Q. When did you graduate from law school?

14 A. 2000.

15 Q. And did you proceed -- and this might show my

16 ignorance of the system. Did you go from college to law

17 school; is that how it works there in Canada as well?

18 A. So at the time -- and to be hones, I don't even know

19 how it works anymore -- at the time you had to have at least

20 completed, I believe, it was two years of an undergraduate

21 degree before you could go to law school. I actually

22 completed my full undergraduate degree before going to law

23 school.

24 Q. Was there any gap between going from undergrad to

25 law school for you?

00043

1 A. No.

2 Q. Okay. So you graduated in 2000. And once you  
3 graduated, what did you do?

4 A. At the time in Canada you had to do what we call  
5 articling, so you basically you had to go article with a  
6 firm for -- I think it was around 11 months. So you article  
7 and then you write your bar exam. So I articulated and then  
8 you go to -- you take the courses, the bar courses through  
9 the law society, and then you write all the several bar  
10 exams.

11 Q. Okay. And so let's say that took a year. And then  
12 what was your first non-articling job?

13 A. So my first non-articling job was working at a very  
14 small -- it was basically a three-person firm, full service  
15 kind of firm, law firm, that -- I would say they primarily  
16 dealt with civil litigation. I started focusing on real  
17 estate.

18 Q. How long did you stay there?

19 A. I wasn't there very long. I think my recollection  
20 is about -- I want to say six to eight months.

21 Q. Okay. And I'm just -- I don't want to -- it's not a  
22 memory test. But is there any significant, you know, did  
23 you go to a different private practice or did you do  
24 something different?

25 A. So I moved around. After that I went actually to --

00044

1 I went to work for a company, just a business, a technology  
2 business. And I acted -- I kind of did some in-house type  
3 work for them, but the majority I was actually doing  
4 production management, essentially. It was a very -- it was  
5 startup firm. There was three of us and we basically wore a  
6 lot of hats.

7 Q. And when you say production manager, are you talking  
8 they actually produced, for lack of a word, widgets?

9 A. They actually produced motors for elevators.

10 Q. Okay. Then after that?

11 A. After that I believe I went to the -- what we  
12 call -- it's called LawPro -- no. I'm sorry. Let me back  
13 up. I am trying to go back to my memory. I believe after  
14 that I went to -- I started my own firm, primarily in real  
15 estate.

16 Q. Okay. And then stayed in private practice for a  
17 period of time?

18 A. Yeah. So I think I had my own firm for about two  
19 years.

20 Q. Okay. Did you like it?

21 A. It was fun. It was stressful being, you know,  
22 solely responsible for yourself and basically having all  
23 functions under your umbrella. It was very interesting,  
24 very educational. But that's also why I left; it was just  
25 very stressful.

00045

1 Q. I know how you feel. Okay. So you left private  
2 practice and then what came next?

3 A. So then I went to the Law Society of Ontario  
4 basically has a bar-related title insurer and I went to work  
5 for them as a -- I can't remember what my title was, but I  
6 think it was a title analyst of some sort.

7 Q. Okay. Did you stay with -- did that change at any  
8 time while you worked for them or did your duties change?

9 A. I think I was with them for about two years. And  
10 over the course of those two years I started getting a  
11 little bit more responsibility but my job duties didn't  
12 change fundamentally.

13 Q. Okay. And did that -- was that right before DaVita  
14 or was there something else?

15 A. No. So that ended in 2008. So I think we're up  
16 around 2008 now. In 2008, I want to say August, I went to  
17 work for the Law Society of Ontario.

18 Q. Okay. And I thought you had said that you had  
19 worked for the Law Society of Ontario for the title  
20 insurance. Is this a different entity?

21 A. So it's a separate entity. It's an affiliate. It's  
22 a bar-related title insurer and they have an affiliation but  
23 they are distinction. So I moved from LawPro, which was the  
24 title insurer to the actual Law Society of Ontario.

25 Q. Okay. What did you do there?

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1 A. I investigated complaints against lawyers and  
2 paralegals for alleged violations of the rules of  
3 professional conduct.

4 Q. And anything after that before DaVita or was that --

5 A. So there's kind of a gap there because we moved from  
6 Canada. So after that, we moved from Canada to Texas where  
7 I was actually a stay-at-home dad for a few years. And then  
8 in 2016 I went back to Canada to resume, on a contract  
9 basis, the same role I had, complaints resolution counsel.  
10 So from 2016 to early 2017, I was actually working back in  
11 Canada; and then in 2017 came back here for the DaVita  
12 position.

13 Q. Okay. And then when you first got hired by DaVita,  
14 you moved up to director. You didn't start out as director,  
15 right?

16 A. Correct.

17 Q. And what was your role prior to becoming director?

18 A. So I have had two roles prior to becoming director.  
19 I was initially hired in 2017 as a manager. And then I  
20 believe it was 2018, I became a senior manager. And then  
21 recently, beginning of March 2021, I became director.

22 Q. All right. And when you were a manager in the same  
23 department or different?

24 A. No. So there's been changes, initially in 2017 when  
25 I was hired as a manager, I conducted investigations for



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1 what teammate relations group. And for the specific  
2 geography so I'm in Texas, so I was doing investigations for  
3 -- primarily our Texas market.

4 Q. And then when you were senior manager, did that  
5 change?

6 A. Yes. So senior manager is when I kind of left  
7 behind doing the investigations I still -- at that point I  
8 started overseeing a team that conducted -- well, I guess  
9 all facets of investigations, more on the west coast. And  
10 then I also, at that point, took over -- that's when I took  
11 over the policy team.

12 Q. And when you became director, it was the same area,  
13 just broader or not?

14 A. So director, I haven't -- so I'll try and put  
15 this -- so in 2018 I became senior manager. I started  
16 overseeing kind of that western investigations group. I  
17 started overseeing the policy team in October of -- I want  
18 to say 2019 is when I took over the wage an hour team. I  
19 was still senior manager. I still had my other duties. I  
20 started overseeing the wage an hour team.

21 At some subsequent point I kind of stopped  
22 overseeing the investigations group. So I was focused  
23 exclusively on wage an hour and the policies group and then  
24 I also, at some point, started overseeing the unemployment  
25 sphere. And then more recently -- I want to say the

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1 beginning of 2021 -- is when I took on the mergers and  
2 acquisitions piece. So I already had all that stuff going.  
3 And then in early March, early March, I was promoted to  
4 director but nothing really changed. I already was given  
5 any new teams to oversee.

6 Q. Okay. Now, and this -- let me ask you, did you read  
7 the complaint or the amended complaint filed in this case at  
8 any time?

9 A. I don't believe I've actually seen the complaint.

10 Q. Okay. Can you tell me what you understand the  
11 purpose of providing the teammates handbook to DaVita's  
12 employees is?

13 A. Sorry. Just repeat, providing the handbook?

14 Q. Right.

15 A. Yeah. So I would say, in my opinion, the purpose of  
16 providing the handbook is to make teammates aware basically  
17 of what we expect of them -- so it's two-fold; I think the  
18 expectations of them and we also alert them to things that  
19 are available to them. And I say that because we have, you  
20 know, descriptions of certain programs that they can  
21 utilize, benefit-type programs.

22 Q. And any other -- when you say expect of them, it's  
23 basically to provide them -- can you give me an example of  
24 expectation?

25 A. Yeah. I mean performance and behavior expectations.

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1 So, you know, one example, conduct or, you know, appearance  
2 or, you know -- I mentioned attendance. So those are all  
3 expectations we have of teammates, that they're going to  
4 dress in a professional manner; that they're going to attend  
5 promptly and those types of expectations, things we expect  
6 of them.

7 Q. And does it create any expectations of how they're  
8 going to be treated by DaVita?

9 A. I would say yes. I mean, for instance, we have our  
10 harassment policy which goes both ways, right. We're down  
11 to leaders and, myself included, are bound by these policies  
12 just as much as any other teammate. And so I, as a leader  
13 of DaVita, to answer your question, yes, I'm under the same  
14 expectations and obligations. So a teammate reading this  
15 should know that I, as a leader or their leader or whoever  
16 it is, has to treat them fairly and appropriately and  
17 professionally as well.

18 Q. Now, as far as the complaint, you said you don't  
19 think you've seen it. If I showed you the document, would  
20 that maybe help refresh your -- I mean are you familiar with  
21 what a complaint is?

22 A. Yes. It's funny. I think at some long previous  
23 point I had asked. It's been a while since I don't do any  
24 court documents. But, yes, I think I'm familiar.

25 Q. Would it help you to show you the complaint

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1 potentially or -- let me pull it up and see.

2 MS. PETERSEN: Counsel, are you going to refer to  
3 the document?

4 MR. BORISON: Yeah. I'm just looking for the  
5 number. It will be Exhibit Number 1. And let me just pull  
6 it up, okay.

7 A. And the only reason I say that is because in Canada  
8 I think we probably have different terminology.

9 Q. Yeah. Here it could vary state by state.

10 (Mr. Borison shares screen.) [\*\*]

11 MR. BORISON: This is marked as Exhibit Number 1.  
12 And just for the record, we had created a master list and we  
13 were going to use the same numbers for all the depositions  
14 rather than mark them separately. But this is Number 1 of  
15 the master list. I'm happy to scroll through it. I don't  
16 know if the first page triggers your memory or not.

17 A. Yeah. I definitely have not seen this recently. I  
18 don't think I've seen it. But I'm also -- I mean I don't  
19 know -- I think I would remember if I did.

20 Q. That's fine. I just want to know. I don't want to  
21 ask you questions about it if you haven't seen it.

22 A. No. And I don't think I've seen it. It just  
23 doesn't -- yeah.

24 Q. Okay. So let me ask you a couple of questions. Do  
25 you know whether DaVita, Inc. itself actually has its own

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1 employees?

2 A. I don't know. Like I said, for all the functions I  
3 am in charge of, we don't make any distinction between  
4 DaVita; everybody, to us, is a DaVita teammate, so I don't  
5 know.

6 Q. I mean is part of that -- so if you get involved in  
7 a wage an hour issue, for instance, that might apply to  
8 particular employees at Total Renal Care, TRC, or some other  
9 entity that's under the DaVita umbrella; is that correct?

10 A. Yeah. That has never been an issue or even  
11 identified as to when we get an wage an hour question, this  
12 is a Total Renal Care teammate; it never comes that way. I  
13 don't recall any instance where that's even been identified.

14 Q. Have you ever seen like an organizational chart for  
15 DaVita, Inc. and listing all the subsidiaries?

16 A. No.

17 Q. Do you know if one exists?

18 A. I'm sorry. If what exists?

19 Q. An organizational chart.

20 A. Oh, an organizational chart. I don't know -- I  
21 can't speak -- I haven't seen one, so I'm not sure if it  
22 exists or not.

23 Q. I'm sorry. Forgive me. I think we just touched on  
24 it and I might have asked you this so forgive me if I have.  
25 During your time there, have you seen any time that the

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1 Disaster Relief Policy was applied to a situation?

2 MS. PETERSEN: Objection, asked and answered.

3 MR. BORISON: I'm sorry. I really just don't

4 remember.

5 Q. Are you answering or you're thinking or not?

6 A. I'm sorry. I was just -- I thought counsel had said

7 it was already asked and answered.

8 Q. Yeah, but that's just for the record. If you could

9 indulge me.

10 A. Okay. Yeah, I think what I said before is I'm not

11 part of that process. I know now you just used the word

12 "have you ever seen." So I'm not even sure what necessarily

13 what that means, "seen." I'm not part of that decision as

14 to whether it's utilized or not, so I can't say.

15 Q. Okay. That's fine. I'm just -- I couldn't

16 remember. And your answer explains why I probably couldn't

17 remember.

18 Do you know what the Disaster Governance Council is?

19 A. Again, I'm not part of that. I know what it says in

20 the policy, but that's the extent of my knowledge with

21 respect to that.

22 Q. Do you know anybody who's on it, how it's composed?

23 A. No.

24 Q. If you had to find out, what would you do to find

25 out who is on that council?

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1 A. I don't know. Probably reach out to the council.

2 Q. And in the section there's a reference; there's some  
3 acronyms. They're probably self-explanatory, but let me  
4 just ask you. There's a DVP is that district vice  
5 president?

6 A. Yes -- or sorry. Not district, division -- division  
7 vice president.

8 Q. Thank you. GVP?

9 A. Group vice president.

10 Q. And then PSD?

11 A. People services director.

12 Q. That's you, right, or not?

13 A. Well, so that would -- so, yes, I am the director of  
14 people services. But what that's really referring to is a  
15 local -- so we have kind of these local human resources  
16 groups. And it there would be a people services manager for  
17 that geographic region and then there would be a people  
18 services director.

19 Q. Do they --

20 A. But, again, I'm not sure. Maybe I could be included  
21 in that. I don't know. But when I think of, what we call  
22 PSDs and we use that acronym, when I use that, it's usually  
23 in reference to those geographical directors.

24 Q. Do they report to you or do they report to someone  
25 else?

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1 A. They do not report to me.

2 Q. Who do they report to if you know?

3 A. Sorry. Now I'm blanking. They would report up to  
4 the people services group, which is separate, though, from  
5 me. So there's a separate kind of field group. But this is  
6 where I'm going to go into honestly I usually isolate myself  
7 from my own world, so I don't want to give you wrong  
8 answers.

9 Q. That's fine. I appreciate that. I'm just asking if  
10 you knew.

11 MR. BORISON: Unless you have an objection, Chelsea,  
12 could we take five minutes and let me see what else.

13 It might be over soon, Mr. Zuckerman.

14 MS. PETERSEN: That's fine.

15 (Brief recess.)

16 MR. BORISON: Thank you for your time, and that's  
17 the end of my questions.

18 If you have any questions and if you want to tell  
19 him about read and sign.

20 MS. PETERSEN: No questions for me.

21 (Concluded at 10:52 a.m.)

22 (Signature reserved.)

23 [sig/cert/corr]

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25